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-ATTACHMENT:

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XR-8016953

DEPARTMENT OF STATE

ACTION MEMORANDUM

S/S November 17, 1980

CONFIDENTIAL 1980 NOV 21 P 1 52

COPIES TO:
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FILE(rs)

TO: P - Mr. Newsom

FROM: NEA - Harold H. Saunders

SUBJECT: Renewal of U.S.S. Liberty Negotiations

Pursuant to your approval in early August (Tab B), we have prepared in coordination with Treasury and the Navy, a note to the Government of Israel presenting our claim for compensation for physical damages caused to the U.S.S. Liberty in 1967. Attached at Tab A is a cable authorizing Embassy Tel Aviv to present our claim to the MFA, at the same time as we present it to the Israeli Embassy here. The two attachments to the cable provide the calculations made respectively by the Navy and Treasury to arrive at our claim of $17,132,709. This amount reflects the Navy's estimate of the amount required to restore the U.S.S. Liberty and its equipment to the condition it was in immediately prior to the attack on June 8, 1967, and the Treasury's estimate of an interest charge on the principal for the period between July 1967 and July 1, 1980.

I have told Eppie this is coming. He simply wants the least costly settlement for Israel. I told him this is the normal basis on which we present our claims and would be expected by all those here with an interest. With the parameters established, we can go on from there to work out a settlement.

Recommendation: That you approve transmission of the attached cable to Embassy Tel Aviv to initiate cur claim against the GOI for compensation for physical damages caused to the U.S.S. Liberty in 1967.

Attachments:

Tab A: Cable to Tel Aviv.
Tab B: Copy of August 5 memo. S/S

Drafted:NEA/IAI:JLHirsch:def
11/17/80 x23672
Cleared:NEA/IAI:DAKorn
NEA:MDraper
NSC:GSick

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GDS 11/17/86

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NODIS REVIEW
Cat A - Caption removed; transferred to O/FADRC
Cat B - Transferred to O/FADRC with traditional access controlled by S/S
Cat C - Caption and custody retained by S/S
Reviewed by:
Date: 16 Aug 1982

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY DATE 12/27/82
EXT. DATE REASON(S)
XDS or XDS TS AUTH.
ENDORSE EXISTING MARKINGS
DECLASSIFIED RELEASABLE
RELEASE DENIED
PA or FOI EXEMPTIONS

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Cable Sent 11/26 0-5E

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NEA/IAI:ECUBBISON:SMB
11/17/80 X23672
P:DNEWSOM

NEA/IAI:DAKORN
L/NEA:TRAMISH
S/S:RGHSEITZ

NEA:MDRAPER
S/S-O:

NODIS REVIEW
Cat. A - Caption removed; transferred to O/FADRC
Cat. B - Transferred to O/FADRC with additional access controlled by S/S
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Reviewed by:
Date: 16 APR 19 82

IMMEDIATE TEL AVIV

EXDIS

E.O. 12065: GDS 9/17/86 (NEWSOM, DAVID)

TAGS: MILI, IS, US

SUBJECT: US CLAIM FOR COMPENSATION: PHYSICAL DAMAGE TO USS LIBERTY

1. (CONFIDENTIAL ENTIRE TEXT.)

2. DEPARTMENT HAS COMPLETED PREPARATIONS ON USG NEGOTIATING POSITION TO BE USED IN PRESENTING OUR CLAIM AGAINST GOI FOR COMPENSATION FOR PHYSICAL DAMAGES CAUSED TO USS LIBERTY IN THE 1967 ATTACK. THERE FOLLOWS IN PARA 6 TEXT OF A USG NOTE WHICH DEPARTMENT WILL GIVE TO ISRAELI EMBASSY WASHINGTON AND EMBASSY TEL AVIV SHOULD GIVE TO MFA. WE WOULD LIKE TO HAVE NOTE HANDED OVER HERE AND IN JERUSALEM SAME DAY. EMBASSY SHOULD PROPOSE A DATE FOR PRESENTATION THAT IT CONSIDERS APPROPRIATE. WE ARE PREPARED TO HOLD TALKS ON THIS CLAIM EITHER IN WASHINGTON OR IN ISRAEL, WHICHEVER IS CONVENIENT FOR GOI. IF TALKS ARE TO BE IN ISRAEL WE CAN SEND OUT TECHNICAL EXPERTS IF NECESSARY TO PROVIDE FURTHER INFORMATION ON USG CALCULATIONS RE LIBERTY REPAIR CLAIM AND INTEREST CALCULATIONS.

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3. AS EMBASSY WILL SEE FROM TEXT OF NOTE, USG OPENING POSITION IS TO PRESS FOR PAYMENT OF FULL AMOUNT OF DAMAGES AS ESTIMATED BY NAVY IN 1967, AND PRESENTED TO GOI ON JULY 1, 1968, PLUS A CHARGE FOR INTEREST. THIS APPROACH HAS BEEN USED IN MAKING INITIAL PRESENTATIONS IN ALL USG INTERNATIONAL CLAIMS FOR MANY YEARS, EVEN THOUGH AS PRACTICAL MATTER WE HAVE NEVER SUCCEEDED IN OBTAINING INTEREST ON SUCH A CLAIM IN THE POST-WORLD WAR TWO ERA.

4. WE HAVE POUCHED TO POST COPIES OF SETTLEMENTS REACHED IN 1976 AND 1979 WITH THE GOVERNMENT OF EGYPT THAT WILL BE USEFUL IN TWO RESPECTS. FIRST, THESE U.S. CLAIMS WERE PAID IN FULL BY THE GOE; AND SECOND, THREE-YEAR AND FIVE-YEAR REPAYMENT SCHEDULES WERE AGREED UPON. IN OUR DIPLOMATIC NOTE TO MFA, WE PROPOSE A THREE-YEAR REPAYMENT SCHEDULE.

5. FYI: SHOULD GOI REJECT OUR OPENING POSITION, WE ARE PREPARED AFTER AN APPROPRIATE INTERVAL OF NEGOTIATION TO OFFER AS A FALLBACK POSITION A CLAIM FOR FULL COMPENSATION OF THE PRINCIPAL -- THE $7,644,146 ESTIMATED DAMAGES. WE ARE ALSO PREPARED TO OFFER A FIVE-YEAR REPAYMENT SCHEDULE AS AN ADDITIONAL FALLBACK. END FYI.

6. TEXT OF NOTE FOLLOWS. BEGIN TEXT:

-- THE EMBASSY OF THE UNITED STATES OF AMERICA REFERS THE MINISTRY OF FOREIGN AFFAIRS TO THE EMBASSY'S NOTE OF FEBRUARY 22, 1978, CONCERNING THE OUTSTANDING CLAIM OF THE UNITED STATES AGAINST ISRAEL FOR COMPENSATION FOR PHYSICAL DAMAGES TO THE U.S.S. LIBERTY. THE EMBASSY ALSO REFERS TO THE MINISTRY'S RESPONSE OF MAY 25, 1978, IN WHICH THE MINISTRY ADVISED THAT A NEGOTIATING TEAM HAD BEEN APPOINTED WITH INSTRUCTIONS TO ENDEAVOR TO NEGOTIATE A SETTLEMENT OF THIS CLAIM.

-- IN ITS NOTE OF JULY 1, 1968, THE EMBASSY PRESENTED TO THE MINISTRY IN ACCORDANCE WITH ACCEPTED PRINCIPLES OF INTERNATIONAL LAW A CLAIM FOR $7,644,146 ON BEHALF OF THE GOVERNMENT OF THE UNITED STATES FOR LOSSES SUSTAINED AS A RESULT OF PHYSICAL DAMAGE INFLICTED UPON THE

U.S.S. LIBERTY WHEN IT WAS ATTACKED BY ISRAELI AIR AND NAVAL UNITS ON JUNE 8, 1967.

-- THE AMOUNT CLAIMED IN 1968 WAS BASED UPON THE AMOUNT ALREADY EXPENDED AND ESTIMATES MADE BY THE U.S. NAVY OF THE AMOUNT REQUIRED TO RESTORE THE U.S.S. LIBERTY AND ITS EQUIPMENT TO THE CONDITION IT WAS IN IMMEDIATELY PRIOR TO THE ATTACK ON JUNE 8, 1967. A REPORT ON THIS ESTIMATE OF DAMAGES IS ATTACHED TO THE PRESENT NOTE AS ATTACHMENT ONE.

-- AN INTEREST CHARGE HAS BEEN CALCULATED BY ASSUMING THAT REPAIRS WERE MADE IN JULY, 1967 FOR $7,644,146 AND THEN BY APPLYING THE COMPOUNDED ANNUAL U.S. TREASURY BILL RATES FOR THE PERIOD BETWEEN JULY, 1967 AND THE DATE ON WHICH COMPENSATION WAS PAID. FOR THE PURPOSE OF THIS CLAIM, JULY 1, 1980 HAS BEEN USED AS DATE OF PAYMENT OF COMPENSATION. AN EXPLANATION OF THIS METHOD OF CALCULATION IS ATTACHED TO THE PRESENT NOTE AS ATTACHMENT TWO.

-- USING THIS METHOD, THE AMOUNT OF INTEREST ON THE PRINCIPAL SUM OF $7,644,146, FOR THE PERIOD BETWEEN JULY, 1967 AND JULY 1, 1980 HAS BEEN CALCULATED AT $9,488,563.00.

-- THE UNITED STATES GOVERNMENT THEREFORE HEREWITH PRESENTS TO THE GOVERNMENT OF ISRAEL A CLAIM IN THE AMOUNT OF $17,132,709.00, COMPOSED OF $7,644,146 IN PHYSICAL DAMAGES TO U.S.S. LIBERTY AND $9,488,563.00 IN INTEREST ON THE PRINCIPAL SUM. THE UNITED STATES GOVERNMENT PROPOSES THAT THE GOVERNMENT OF ISRAEL PAY THIS CLAIM TO THE GOVERNMENT OF THE UNITED STATES IN THREE EQUAL ANNUAL INSTALLMENTS, COMMENCING ON JANUARY 1, 1981. END TEXT.

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ATTACHMENT ONE

-- CONSOLIDATED REPORT OF COST ESTIMATES TO REPAIR USS LIBERTY (AGTR-5) RESULTING FROM AN ATTACK ON 8 JUNE 1967

THE ESTIMATED COST OF RESTORING USS LIBERTY AND ITS EQUIPMENT TO THE SAME CONDITION AS PRIOR TO THE ATTACK ON 8 JUNE 1967 IS AS FOLLOWS:

A. ACTUAL COST OF VOYAGE REPAIRS COMPLETED AT MALTA	$ 162,608
B. ACTUAL COST OF NORFOLK NAVAL SHIPYARD PERSONNEL TRAVEL TO MALTA	7,000
C. ACTUAL COST OF OIL REMOVAL FROM BULKHEADS AND OVERHEAD	9,750
D. ESTIMATED COST OF ELECTRONIC SYSTEMS RESTORATION	5,410,289
E. ESTIMATED COST OF REPAIR OF HULL, MECHANICAL AND ELECTRICAL DAMAGE	1,695,389
F. ESTIMATED REPLACEMENT COST OF EQUIPAGE, ALLOWANCE ITEMS, CONSUMABLES, ETC.	249,322
G. ESTIMATED COST OF LABOR EXPENDED BY LIBERTY PERSONNEL IN EXCESS OF NORMAL DUTIES AT A RATE OF $45.00 PER HOUR	109,788
-- TOTAL	$7,644,146

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ATTACHMENT TWO

-- USS LIBERTY: CLAIM FOR DAMAGES

THE UNITED STATES GOVERNMENT SEEKS PAYMENT FROM THE GOVERNMENT OF ISRAEL TO RECOVER THE COST OF REPAIRING THE USS LIBERTY. THIS CLAIM ASSUMES THAT THE USS LIBERTY WAS REPAIRED AND PAID FOR BY THE U.S. GOVERNMENT IN JULY 1967. THE U.S. GOVERNMENT SEEKS PAYMENT FOR THE ESTIMATED COST OF REPAIRS PLUS THE COST TO THE U.S. TREASURY OF SHORT-TERM MONEY SINCE JULY 1967. (DATE ARE SHOWN THROUGH JUNE 30, 1980.)

THE RELEVANT DATA AND CALCULATIONS ARE:

1. AVERAGE RATE OF INTEREST FOR 13 WEEK TREASURY BILLS:

1967	2.28% (JULY - DECEMBER)
1968	5.35%
1969	6.69%
1970	6.44%
1971	4.34%
1972	4.07%
1973	7.03%
1974	7.87%
1975	5.82%
1976	4.99%
1977	5.27%
1978	7.22%
1979	10.04%
1980	5.88% (JANUARY - JUNE)

2. COMPOUNDING THE INTEREST RATE ANNUALLY (I.E. 1.0228 X 1.0535 X 1.0669 ...) YIELDS AN OVERALL INTEREST COST OF 124.12849.

3. DETERMINING THE DOLLAR VALUE OF INTEREST DUE ON THE ESTIMATED REPAIR COST: 1.2412849 X $7,644,146 = $9,488,563.

4. CALCULATING THE TOTAL CLAIM: $7,644,146 + $9,488,563 = $17,132,709.

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ORIGINAL ESTIMATE OF COST OF REPAIRS: $7,644,146 (1)

YEAR	TREASURY BILL AVERAGE ANNUAL RATE (2)	*
1967 (JULY-DECEMBER)	2.28	7,818,432
1968	5.35	8,236,718
1969	6.69	8,787,755
1970	6.44	9,353,686
1971	4.34	9,759,636
1972	4.07	10,156,854
1973	7.03	10,870,881
1974	7.87	11,726,419
1975	5.82	12,408,896
1976	4.99	13,028,100
1977	5.27	13,714,681
1978	7.22	14,704,881
1979	10.04	16,181,251
1980 (JANUARY-JUNE)	5.88	17,132,709

NOTE. (1) ASSUMES REPAIRS WERE MADE TO USS LIBERTY IN JULY 1967. ESTIMATED COST OF REPAIRS AT THAT TIME WAS $7,644,146. USG IS SEEKING COST OF REPAIRS PLUS COST OF MONEY TO USG SINCE THAT TIME.

(2) SEE FEDERAL RESERVE BULLETIN, TABLE 1.36 OR INTERNATIONAL FINANCIAL STATISTICS, LINE ITEM 60C IN UNITED STATES TABLE.

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